

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

MARCUS THURMAN,

Plaintiff,

v.

**COUNTY COMMISSIONERS OF
OKLAHOMA COUNTY et al.,**

Defendants.

Case No. CIV-17-950-G

ORDER

On November 28, 2018, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation pursuant to 28 U.S.C. § 636(b), wherein he recommended that Plaintiff's Motion for Default Judgment (Doc. No. 42) be denied and that the Court extend Plaintiff's time to serve Defendant Miller. Judge Erwin advised the parties of their right to object to the Report and Recommendation by December 17, 2018, and specifically advised that failure to make timely objection waives the right to appellate review of the factual and legal issues addressed therein. To date, no party has filed an objection to the Report and Recommendation or sought an extension of time to do so.¹


¹ The case record reflects that on November 30, 2018, the Court received a document from Plaintiff titled "Response to Court's Order for Service on Defendant Miller" (Doc. No. 48). In this document, Plaintiff cites to the Court's Order Requiring Service and Special Report (Doc. No. 19) and objects to Defendant County Commissioners of Oklahoma County's response to Plaintiff's Motion for Default Judgment against Defendant Miller. *See* Doc. No. 43. The Court does not construe this submission as an objection to Judge Erwin's Report and Recommendation. Though the document addresses the issue of service upon Defendant Miller, it does not reference the Report and Recommendation. Moreover, the envelope attached to the document reflects that the document was mailed on November 28, 2018, the same date on which the Report and Recommendation was issued and mailed to Plaintiff. *See* Doc. No. 48-1.

IT IS THEREFORE ORDERED that the Report and Recommendation issued by United States Magistrate Judge Shon T. Erwin (Doc. No. 47) is ADOPTED. Plaintiff's Motion for Default Judgment (Doc. No. 42) is DENIED.

IT IS FURTHER ORDERED that Plaintiff is granted an extension of time of 60 days from the date of this Order, or until June 3, 2019, to effect service of process upon Defendant Miller in this action. The Court Clerk is directed to mail to Plaintiff the necessary forms for requesting the issuance of a summons along with this Order. For service to be made, Plaintiff must complete these forms and return them to the Court Clerk, along with a service copy of the Complaint, within twenty-one days from the date of this Order. Upon receipt of properly completed forms, the Court Clerk will issue a summons.

IT IS FURTHER ORDERED that, because Plaintiff has been granted leave to proceed *in forma pauperis*, the United States Marshals Service shall attempt to serve Defendant Miller, subject to Plaintiff first completing the requirements set forth above. Unless Defendant Miller waives service, Plaintiff must ensure that a proof of service is filed for Defendant Miller on or before the expiration of the sixty-day extended period for service as set forth in this order. The failure to file a timely proof of service may result in the Court dismissing Plaintiff's claims against Defendant Miller.

IT IS SO ORDERED this 4th day of April, 2019.



CHARLES B. GOODWIN
United States District Judge